

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

SONYA YVETTE JONES,)	NO. _____
)	
Plaintiff,)	JUDGE _____
v.)	
)	MAGISTRATE JUDGE
SCOTT J. NEAL and BLUE DIAMOND)	_____
TRANSPORTATION, LLC,)	
)	JURY DEMAND
Defendants.)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1332, 1441, and 1446, defendant Blue Diamond Transportation, LLC (“Blue Diamond” or “Defendant”), by counsel, files this Notice of Removal of this action from the Circuit Court in Davidson County, Tennessee, where it is now pending, to the United States District Court for the Middle District of Tennessee based upon diversity of citizenship and an amount in controversy exceeding \$75,000. The grounds for removal are as follows.

Procedural Background

1. This action was commenced on or about March 1, 2021 by Plaintiff’s filing of the Complaint in the Davidson County Circuit Court in Davidson County, Tennessee, case no. 21C394 (the "Complaint"). True and accurate copies of the pleadings served upon this Defendant in this action are attached as Exhibit A.

2. Plaintiff’s Complaint relates to an incident occurring on September 12, 2020, in Nashville, Davidson County, Tennessee, between a passenger vehicle operated by Plaintiff and a tractor trailer operated by defendant Scott Neal (“Incident”). As the vehicles were turning left onto Spring Street, after exiting Interstate 24, Plaintiff’s vehicle and the rear of Defendant’s trailer contacted one another.

3. Plaintiff exited her vehicle after the Incident, was able to speak and was ambulatory at the scene of the Incident.

4. The police report noted minor injuries being claimed by Plaintiff at the scene.

5. Plaintiff's Complaint did not set forth an amount of money being sought in damages by Plaintiff. Rather, the Complaint requested "an award of judgement damages against the Defendants in an amount which the trier of fact finds is fair and reasonable, in dollars of the United States, under the facts and circumstances of the case for the property damage and personal injuries suffered by the Plaintiff" *See Complaint*, Prayer for Relief, ¶ 2.

6. The Complaint was served on this Defendant on or about March 12, 2021 through the Secretary of State's Office.

7. Based on the circumstances of the Incident and facts as known upon service of the Complaint, Defendant did not believe the amount in controversy would exceed \$75,000 such that this Court would have jurisdiction over the matter.

8. On September 28, 2021, Plaintiff provided her responses to Defendant's first set of interrogatories and requests for production of documents. The responses were received in Defendant counsel's office on October 1, 2021. The responses were sent by U.S. Mail only, not email or in any other fashion. In the responses, Plaintiff itemized the medical charges she was relating to the Incident. Plaintiff itemized \$42,245.94 in medical expenses and further indicated she is still under treatment for injuries she is relating to the Incident.

9. 28 U.S.C. § 1446(b)(3) provides that if the initial pleading does not show the case is removable, the 30-day window for removal is triggered upon "receipt by the defendant,

through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.”

10. Plaintiff’s written discovery responses were the first notice that Defendant had indicating this case was removable. Responses to discovery is treated as “other paper” under 28 U.S.C. § 1446(b)(3).

11. The Notice of Removal is being filed within thirty (30) days after Defendant received Plaintiff’s written discovery responses on October 1, 2021. Thus, the removal is timely in accordance with 28 U.S.C. § 1446.

12. Plaintiff’s Complaint contains allegations of negligence and negligence *per se* against defendant Scott J. Neal in operating the vehicle without exercising ordinary and due care, thus leading to Plaintiff’s injuries. It contains allegations of vicarious liability against this Defendant. Although Plaintiff’s Complaint does not contain an amount of monetary relief being sought, it is clear from Plaintiff’s discovery responses that she will be seeking damages in excess of \$75,000 such that this Court has jurisdiction over the matter.

13. According to the Complaint, Plaintiff is a citizen and resident of Rutherford County, Tennessee.

14. Defendant Blue Diamond Transportation, LLC is a foreign corporation organized under the laws of the State of Florida with its principal place of business in Florida.

15. Defendant Scott J. Neal is a citizen and resident of the State of North Carolina. Undersigned counsel is also representing Mr. Neal in this matter, and he consents to the removal of this matter to the United States District Court for the Middle District of Tennessee. As of the filing of this removal, Mr. Neal has not been served with the Complaint. Once service is perfected on him, undersigned counsel will enter a notice of appearance and appropriate

responsive pleading on his behalf.

16. The United States District Court for the Middle District of Tennessee has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 as there is complete diversity of the parties, and the amount in controversy (as shown by Plaintiff's discovery responses) clearly exceeds \$75,000 exclusive of interest and costs.

17. A copy of this Notice of Removal is being served via email on counsel for Plaintiff, and a Notice of Filing of Notice of Removal is being filed with the Davidson County Circuit Court in Davidson County, Tennessee, in accordance with 28 U.S.C. § 1446(d). (Copies of those notices are attached as Exhibit B.) The necessary filing fees have been paid simultaneously with the filing of the Notice of Removal.

18. A copy of Defendant's Answer to the Complaint is attached hereto as Exhibit C.

19. Defendant demands a jury of the maximum number to try this case.

WHEREFORE, defendant Blue Diamond Transportation, LLC prays this Court consider the Notice of Removal as provided by law governing removal of cases to this Court and that this Court enter the appropriate orders to affect the removal of this case from the Davidson County Circuit Court in Nashville, Tennessee to this Court.

Respectfully submitted,

LEWIS THOMASON, P.C.

By: /s/Mary Beth White

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*Attorneys for defendant Blue Diamond
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing NOTICE OF REMOVAL has been served on the following counsel of record via email and through the Court's electronic filing system:

Stanley A. Davis, Esq.
5214 Maryland Way, Suite 309
Brentwood, TN 37027

This the 28th day of October 2021.

/s/Mary Beth White